

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION

VICTOR BERNARD LYLES,

Plaintiff

VS.

DR. DEWAYNE AYERS, et al.,

Defendants.

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1 : 06-CV-56 (WLS)

RECOMMENDATION

Presently pending in this action brought pursuant to § 1983 is the plaintiff's Motion for a Temporary Restraining Order and/or Preliminary Injunction. The plaintiff filed this action in April 2006, raising allegations of deliberate indifference to serious medical needs. In his motion seeking injunctive relief, the plaintiff asks that the court direct the defendants to provide him with an examination and plan of treatment by an "outside" orthopedic surgeon.

In order to obtain injunctive relief, the plaintiff must prove that: (1) there is a substantial likelihood that he will prevail on the merits; (2) he will suffer irreparable injury unless the injunction issues; (3) the threatened injury to the movant outweighs whatever damage the proposed injunction may cause the opposing party; and (4) the injunction, if issued, would not be adverse to the public interest. Zardui-Quintana v. Richard, 768 F.2d 1213, 1216 (11th Cir. 1985); Snook v. Trust Co. of Georgia Bank of Savannah, N.A., 909 F.2d 480, 483 (11th Cir. 1990). Injunctive relief will not issue unless the conduct at issue is imminent and no other relief or compensation is available. Cunningham v. Adams, 808 F.2d 815, 821 (11th Cir. 1987).

A review of the plaintiff's motion reveals no basis for the issuance of an injunctive order.

The plaintiff has not established that he is entitled to injunctive relief, i.e., there is a substantial likelihood of success on the merits or resulting irreparable harm, or that no other relief is available to address his alleged injuries. Accordingly, it is the recommendation of the undersigned that the plaintiff's Motion for a Temporary Restraining Order and Preliminary Injunction be **DENIED**. Pursuant to 28 U.S.C. § 636(b)(1), the parties may file written objections to this recommendation with the Honorable W. Louis Sands, United States District Judge, WITHIN TEN (10) DAYS of receipt thereof.

SO RECOMMENDED, this 27th day of June, 2007.

/s/ **Richard L. Hodge**
RICHARD L. HODGE
UNITED STATES MAGISTRATE JUDGE